

AARON D. FORD
Attorney General
JESSICA E. WHELAN (Bar No. 14781)
Chief Deputy Solicitor General
NICOLE N. TING (Bar No. 12289)
Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
(775) 684-1250 (phone)
(775) 684-1108 (fax)
nnting@ag.nv.gov
jwhelan@ag.nv.gov

*Attorneys for the State of Nevada,
ex rel. Nevada Office of the Military,
Governor Lombardo, Governor Sisolak
General Berry, and General Waters*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FELICIA CAVANAGH, as Special Administrator
of the Estate of ALLISON E. BAILEY, Deceased;
FELICIA CAVANAGH, individually; and TIM
DUGGIN, as parent, custodian, and/or guardian of
minors COLBY L. DUGGIN and CALEB W.
DUGGIN; collectively,

Plaintiff(s),

vs.

STATE OF NEVADA ex rel. NEVADA OFFICE
OF THE MILITARY; BRIG. GEN. ONDRA
BERRY, in his individual and official capacities;
BRIG. GEN. TROYE. ARMSTRONG, in his
individual and official capacities; BRIG. GEN. D.
RODGER “DAN” WATERS, in his official
capacity; LT. COL. KEVIN E. REMUS, an
individual; MAJ. LAURIE MACAFEE, an
individual; CAPT. MICHELLE TUCAY, an
individual; STEPHEN F. SISOLAK, in his
individual and official capacities; JOSEPH M.
LOMBARDO, in his individual and official
capacities; and DOES I to X, inclusive;
collectively,

Defendant(s).

Case No. 2:25-CV-00919-JAD-MDC

**AMENDED STIPULATION AND ORDER
TO EXTEND TIME TO FILE
RESPONSIVE PLEADING FOR
DEFENDANT GOVERNOR LOMBARDO,
GOVERNOR SISOLAK, BRIG. GEN.
ONDRA BERRY AND BRIG. GEN. D.
RODGER “DAN” WATERS
(FIRST REQUEST)**

Plaintiffs Felicia Cavanagh, individually and as Special Administrator of the Estate of Allison E. Bailey, deceased, and Tim Duggin, as parent, custodian, and/or guardian of minors Colby L. Duggin, and Caleb W. Duggin (hereinafter collectively referred to as “Plaintiffs”), by and through their counsel, the law firm of LAWRENCE & LAWRENCE LAW, PLLC, and Defendants State of Nevada *ex rel.*; Nevada Office of the Military (“OML”), Brigadier General Ondra Berry (“General Berry”) and Brigadier General D. Rodger “Dan” Waters (“General Waters”) (hereinafter referred to as “OML Defendants”) by and through their counsel, Attorney General for the State of Nevada AARON D. FORD, and Deputy Attorney General NICOLE N. TING and Defendants Governor Stephen F. Sisolak and Governor Joseph M. Lombardo (hereinafter collectively referred to “Governor Defendants”), by and through their counsel, Attorney General for the State of Nevada AARON D. FORD, and Chief Deputy Solicitor General JESSICA E. WHELAN hereby agree and stipulate that the time to file a responsive pleading to Plaintiffs’ Amended Complaint for the OML Defendants and Governor Defendants is extended until June 26, 2025. This is the first stipulation or request for extension of this deadline.

I. FACTS

Plaintiffs filed their Amended Complaint on January 26, 2025, in Nevada state district court for the Eighth Judicial District. The dates the OML Defendants and Governor Defendants were served with the Amended Complaint and associated Summons, are noted below:

- A. The OML signed and agreed to an Acceptance of Service of the Amended Complaint and Summons that was signed on April 23, 2025, and filed on May 14, 2025;
- B. Governor Joseph M. Lombardo was served on April 15, 2025;
- C. Governor Stephen F. Sisolak was served on April 11, 2025;
- D. General Waters was served on May 7, 2025; and
- E. General Berry was served on April 22, 2025.

Subsequently, on May 27, 2025, Defendants Brig. Gen. Troy E. Armstrong, Lt. Col. Kevin E. Remus, Maj. Laurie MacAfee, and Capt. Michelle Tucay, through their attorneys at the United States Attorneys’ Office, filed a Notice of Removal to Federal Court.

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II. RELEVANT LAW

The Federal Rules of Civil Procedure (“FRCP”) provide the deadline of when a defendant must file a responsive pleading to a complaint that has been removed from state to federal court. Specifically, FRCP 81(c)(1) provides that “[t]hese rules apply to a civil action after it is removed from a state court.”

Followingly, FRCP 81(c)(2) details defendant’s deadline to file a responsive pleading to a removed action as the longest of the following periods:

- A. 21 days after receiving - through service or otherwise – a copy of the initial pleading stating the claim for relief;
- B. 21 days after being served with the summons for an initial pleading on file at the time of service; or
- C. 7 days after the Notice of Removal is filed.

III. STIPULATION TO EXTEND TIME TO FILE RESPONSIVE PLEADING

Following the mandates of FRCP 81(c)(2), the OML Defendants and Governor Defendants were to file a responsive pleading for the longest period outlined by FRCP 81(c)(2). Here, 7 days after the Notice of Removal was filed would be the longest period and therefore apply. As such, OML Defendants and Governor Defendants were to have filed a responsive pleading 7 days after May 27, 2025, which was June 6, 2025. Although this deadline has passed, OML Defendants and Governor Defendants’ failure to earlier request or stipulate to an extension of time is the result of excusable neglect. *See* LR 1A 6-1(a). Specifically, counsel for Governor Defendants inadvertently mis-calendared the responsive pleading deadline given confusion about the operation of FRCP 81(c)(2). Once this error was identified, counsel reached out to counsel for Plaintiff to secure agreement to a retroactive extension.

Plaintiffs, OML Defendants, and Governor Defendants hereby agree and stipulate that the time to file a responsive pleading for OML Defendants and Governor Defendants to Plaintiffs’ Amended Complaint is extended until June 26, 2025.

IT IS SO ORDERED:

Hon. Maximiliano D. Couvillier III
United States Magistrate Judge
DATED: 6/24/2025

Submitted By:

AARON D. FORD
Attorney General

By: /s/ Nicole N. Ting

NICOLE N. TING
Deputy Attorney General
Nevada Bar No. 12289
Office of the Nevada Attorney General
100 N. Carson Street,
Carson City, NV 89701-4717
(775) 684-1213
nnting@ag.nv.gov

AARON D. FORD
Attorney General

AARON D. FORD
Attorney General

By: /s/ Jessica E. Whelan

JESSICA E. WHELAN
Chief Deputy Solicitor General
Nevada Bar No. 14781
Office of the Nevada Attorney General
1 State of Nevada Way, Suite 100
Las Vegas, Nevada 89119
(702) 486-4346
jwhelan@ag.nv.gov

*Attorneys for Governor Lombardo
and Governor Sisolak*

LAWRENCE & LAWRENCE LAW, PLLC

By: /s/ Nathan E. Lawrence

NATHAN E. LAWRENCE
Nevada Bar No. 15060
JOSPEH P. LAWRENCE
Nevada Bar No. 16726
9480 S. Eastern Ave., Ste. 213
Las Vegas, NV 89123
T: 702-534-6556
nathan@law2esq.com
joseph@law2esq.com

Attorneys for Plaintiffs

By: /s/ Nicole N. Ting

NICOLE N. TING
Deputy Attorney General
Nevada Bar No. 12289
Office of Nevada Attorney General
100 N. Carson Street,
Carson City, NV 89701-4717
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